

JAP:HLJ

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

10-478 M

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UNITED STATES OF AMERICA

C O M P L A I N T

- against -

(8 U.S.C. §§ 1326(a)
and 1326(b)(2))

JOAN VIVIENNE HARRIS,
also known as
"Joan Vivienne Smith,"

Defendant.

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EASTERN DISTRICT OF NEW YORK, SS:

DANIEL TEITELBAUM, being duly sworn, deposes and states that he is an Enforcement Officer of the United States Customs and Board Protection ("CBP"), Criminal Enforcement Unit at John F. Kennedy International Airport ("JFK"), duly appointed according to law and acting as such.

Upon information and belief, on or about April 25, 2010, within the Eastern District of New York and elsewhere, defendant JOAN VIVIENNE HARRIS, also known as "Joan Vivienne Smith," being an alien who had previously been arrested and convicted of an aggravated felony, and was thereafter excluded and removed from the United States, and who had not made a re-application for admission to the United States to which the Secretary of the Department of Homeland Security, successor to the Attorney General of the United States, had expressly consented, attempted to enter the United States.

(Title 8, United States Code, Section 1326(b)(2))

The source of your deponent's information and the grounds for his belief are as follows:¹

1. I am an Enforcement Officer with CBP and have been involved in the investigation of numerous cases involving the illegal re-entry of aliens. I am familiar with the facts and circumstances set forth below from my participation in the investigation; my review of the CBP investigative file, including the defendant's criminal history record; and from reports of other law enforcement officers involved in the investigation.

2. On or about April 25, 2010, JOAN VIVIENNE HARRIS, also known as "Joan Vivienne Smith," arrived at John F. Kennedy International Airport ("JFK") in Queens, New York, aboard Aer Lingus Airlines Flight 109 from Dublin, Ireland.

3. Defendant JOAN VIVIENNE HARRIS, also known as "Joan Vivienne Smith," presented a valid United Kingdom passport # 458523393 in the name of Joan Vivienne Smith. JOAN VIVIENNE HARRIS, also known as "Joan Vivienne Smith," was seeking entry into the United States under the Visa Waiver Program as a visitor for pleasure. As a routine part of her primary inspection the defendant's fingerprints were obtained. The resulting submission

^{1/} Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause, I have not described all the relevant facts and circumstances of which I am aware.

indicated that JOAN VIVIENNE HARRIS, also known as "Joan Vivienne Smith," had previously been refused a U.S. visa by the Department of State under the name "Joan Vivienne Harris." As a result, the defendant was referred to Passport Control Secondary for further inspection.

4. In Passport Control Secondary, computer checks of the defendant were performed. According to a query of the Consular Consolidated Database Index ("CCDI"), the defendant was refused a visa to the U.S. in 2001 and 2005 under the name "Joan Harris" and was noted to be a Jamaican National. Notes by the Consular officer state that she was previously deported after being sentenced to two years for selling cannabis.

5. A criminal records check under the name "Joan Vivienne Harris" returned an FBI number. When the FBI number was run, a New Jersey state criminal record was returned. The record states that the defendant was convicted of two felony charges, to wit: (1) Employing a Juvenile for Drugs, in violation of New Jersey Code of Criminal Justice 2C:35-6 and (2) Conspiracy to Manufacture/Distribute Controlled Dangerous Substances, in violation of New Jersey Code of Criminal Justice 2C:5-2.

6. A further records check with the defendant's name indicated that the defendant has two Alien numbers. One number had no data associated with the record. The other number returned a record indicating that the defendant was a Jamaican

national who was accorded Legal Permanent Resident status in 1989, and was later ordered deported by an Immigration Judge ("IJ") on November 14, 1994 for being an aggravated felon.

7. On the defendant's entry forms applying to entry the United States under the Visa Waiver Program, the defendant indicated that she had never been deported from the United States. A check of the Electronic System for Travel Authorization (ESTA) also show that the defendant answered "no" to the question of whether she had been previously deported.

8. A review of the defendant's alien file ("A-file") shows that JOAN VIVIENNE HARRIS, also known as "Joan Vivienne Smith," was (1) ordered removed by an IJ on November 14, 1994, and (2) deported on May 12, 1995 as an aggravated felon. In addition, no waivers were found in the defendant's A-file. A review of the defendant's A-file also shows that she did not receive permission to re-enter the United States.

WHEREFORE, your deponent respectfully requests that defendant JOAN VIVIENNE HARRIS, also known as "Joan Vivienne Smith," be dealt with according to law.

S/ Daniel Teitelbaum

DANIEL TEITELBAUM
Enforcement Officer
U.S. Customs and Border Protection

Sworn to before me this
26th day of April, 2010

s/ Joan Azrack

THE HONORABLE JOAN M. AZRACK
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK